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Saunders: Pension Bill Imposes An Income Tax

TALLAHASSEE, Fla. – During debate today on House Bill 1405, **House Democratic Leader Ron Saunders (D-Key West)** alerted state representatives that the public employee pension bill is an income tax, which is prohibited by Florida's constitution.

Leader Saunders made the following remarks, including raising a “point of order” under House Rule 5.4 (c):

“Members, on behalf of the teachers, firefighters, police officers and other public employees who are members of the state retirement system, I want to quote from a song by the Queen of Soul, Aretha Franklin, who said, ‘You better think - think about what you’re trying to do to me.’

“So what does this bill do to our public servants? It imposes an income tax on them for the first time in our state’s history! “But you may say, Rep. Saunders, we have been told that this is not an income tax. A simple way to determine whether the “contribution” in this bill is an income tax is to look at the definition of income tax.

“An income tax is defined as ‘A mandatory payment imposed on residents of a prorated portion of their income as a contribution towards the cost of government services.’ “So is the “contribution” in this bill an income tax? First, Is the contribution a “mandatory payment?” Yes - it is required to be paid as a condition of employment. Second, is the “contribution” imposed as “a prorated portion of their income?” Yes - the contribution is based solely on a percentage of income. Third, is the “contribution” directed “towards the cost of government services?” Yes, pension benefits have been considered a cost that our state government has paid.

“Let me close with two things. First, as Aretha said, ‘Think.’ Think before you vote for a bill that for the rest of your political career will be considered by many to be a state income tax. Second - Mr. Speaker, I raise a point of order on this bill.”

POINT OF ORDER RAISED ON HB1405 By Rep. RON SAUNDERS...

House Rule 5.4 (c) states in part:

“Bills that propose to amend existing provisions of law shall contain the full text of the section, subsection, or paragraph to be amended. Joint resolutions that propose to amend the Florida Constitution shall contain the full text of the section to be amended. As to those portions of general bills and joint resolutions that propose to amend existing provisions of the Florida Statutes or the Florida Constitution, words to be added shall be inserted in the text underlined and words to be deleted shall be lined through with hyphens.”

HB 1405 currently under consideration by the Florida House of Representatives is presented as a general bill that proposes to amend existing provisions of Florida Statutes, including imposing a mandatory contribution from members of the Florida Retirement System based on a percentage of their income.

Article VII. Section 5 (a) of the Florida Constitution states:

“(a) NATURAL PERSONS. No tax upon estates or inheritances or upon the income of natural persons who are residents or citizens of the state shall be levied by the state, or under its authority, in excess of the aggregate of amounts which may be allowed to be credited upon or deducted from any similar tax levied by the United States or any state.”

Although the mandatory contribution from members of the Florida Retirement System set forth in HB 1405 is based on a percentage of their income, it is referred to as a contribution to their retirement fund rather than as an income tax.

The prohibition on a personal income tax contained in Article VII of the Florida Constitution does not provide for any exceptions to the prohibition based on the terminology used or the fund to which the revenues generated are directed. HB 1405 is styled as a general bill which proposes to amend the Florida Statutes. However it should be presented as a joint resolution since it proposes to amend the Florida Constitution. HB 1405 therefore violates House Rule 5.4(c).

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